

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of:	)	
	)	
Storefront Television	)	
	)	CSR-6958-N
v.	)	CSR-6963-N
	)	
Last Mile Communications LLC, d/b/a Cable	)	
Choice	)	
and	)	
Liberty Cablevision of Puerto Rico, Ltd.	)	
	)	
Request for Network Non-Duplication Protection	)	
of Television Stations WPRU-LP and WSJP-LP,	)	
Aquadilla, PR	)	

**MEMORANDUM OPINION AND ORDER**

**Adopted: August 31, 2006**

**Released: September 1, 2006**

By the Deputy Chief, Policy Division, Media Bureau:

**I. INTRODUCTION**

1. Storefront Television, licensee of low power television stations WPRU-LP and WSJP-LP, Aquadilla, Puerto Rico (collectively, the “Stations”), has filed two complaints for network non-duplication protection with the Commission pursuant to Section 76.7 of the Commission’s rules. Storefront Television claims that Last Mile Communications, LLC (“Last Mile”) and Liberty Cablevision of Puerto Rico, Ltd. (“Liberty”) have not afforded WPRU-LP and WSJP-LP such protection.<sup>1</sup> Storefront Television requests that the Commission order Last Mile and Liberty to provide network non-duplication protection to the Stations. Liberty submitted an answer to the complaint, and Storefront Television submitted a reply.

**II. BACKGROUND**

2. Pursuant to Section 76.92 of the Commission’s rules, cable operators must recognize any network non-duplication rights held by a Commission-licensed commercial television station.<sup>2</sup> Where network non-duplication rights apply, a cable operator is prohibited from carrying duplicative

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<sup>1</sup> Complaint Against Last Mile Communications, LLC at 2; Complaint Against Liberty Cablevision of Puerto Rico, Ltd. at 2.

<sup>2</sup> 47 C.F.R. § 76.92(a).

programming as broadcast by any television signal other than that of the rights holder.<sup>3</sup> In order to claim this protection, a broadcaster that enters into a contract for network non-duplication rights must provide notice of its request to enforce those rights within sixty calendar days of signing such a contract and provide certain information as set forth in the Commission's rules.<sup>4</sup>

3. While commercial television stations licensed by the Commission are provided network non-duplication protection, low power television stations are not afforded such protection under the Commission's rules.<sup>5</sup> Section 76.92 of the Commission's rules only requires that cable operators acknowledge the network non-duplication rights of "commercial television station[s] licensed by the Commission."<sup>6</sup> Section 614(h)(1)(A) of the Communications Act of 1934, as amended (the "Act"), defines a local commercial television station as "any full power commercial television broadcast station . . . licensed and operating on a channel regularly assigned to its community by the Commission,"<sup>7</sup> and Section 614(h)(1)(B) of the Act specifically excludes low power television, television translator stations, and passive repeaters from that definition.<sup>8</sup>

### III. DISCUSSION

4. As indicated above, low power television stations are not entitled to network non-duplication protection. As Storefront Television declares on the first page of its complaints, the Stations are "Low Power Television Stations."<sup>9</sup> Storefront Television argues that "low power television stations have come a long way," in the seventeen years since the Commission considered extending network non-duplication protection to low power television stations.<sup>10</sup> That argument does not overcome the fact that the Act and the Commission's rules do not provide low power television stations the authority to exercise network non-duplication rights.<sup>11</sup> Therefore, we must deny Storefront Television's complaints for network non-duplication protection against Liberty and Last Mile.

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<sup>3</sup> *Id.*

<sup>4</sup> 47 C.F.R. § 76.94(b).

<sup>5</sup> 47 C.F.R. § 76.92(a); *Amendment of Parts 73 and 76 of the Commission's Rules Relating to Program Exclusivity in the Cable and Broadcast Industries*, 3 FCC Rcd 6171, 6177 (1988) ("We also observe that none of [the network non-duplication or syndicated exclusivity] rules apply to low power television (LPTV) stations."); *Retransmission Consent and Exclusivity Rules: Report to Congress Pursuant to Section 208 of the Satellite Home Viewer Extension and Reauthorization Act of 2004* at 12, n. 56 (rel. sept. 8, 2005) ("In addition to full power television stations, 100-watt translator stations are allowed to demand network non-duplication protection under certain circumstances.").

<sup>6</sup> 47 C.F.R. § 76.92.

<sup>7</sup> 47 U.S.C. § 534(h)(1)(A).

<sup>8</sup> 47 U.S.C. § 534(h)(1)(B).

<sup>9</sup> Complaint Against Last Mile Communications, LLC at 1; Complaint Against Liberty Cablevision of Puerto Rico, Ltd. at 1.

<sup>10</sup> Storefront Television Reply at 2, citing *Amendment of Parts 73 and 76 of the Commission's Rules Relating to Program Exclusivity in the Cable and Broadcast Industries*, 3 FCC Rcd 6171, 6177 (1988).

<sup>11</sup> See 47 C.F.R. §§ 76.92, 76.93; 47 U.S.C. §§ 534(h)(1)(A) & (B); *Retransmission Consent and Exclusivity Rules: Report to Congress Pursuant to Section 208 of the Satellite Home Viewer Extension and Reauthorization Act of 2004* at 12, n. 56 (rel. sept. 8, 2005).

**IV. ORDERING CLAUSES**

5. Accordingly, **IT IS ORDERED** that the complaint filed by Storefront Television is **DENIED**.

6. This action is taken pursuant to authority delegated under Section 0.283 of the Commission's rules.<sup>12</sup>

FEDERAL COMMUNICATIONS COMMISSION

Steven Broeckaert, Deputy Chief  
Policy Division  
Media Bureau

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<sup>12</sup> 47 C.F.R. § 0.283.